

**STATE OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
BOARD OF REGISTERED NURSING MINUTES**

**DATE:** May 19-20, 2010

**LOCATION:** Hilton Orange County  
3050 Bristol Street  
Costa Mesa, CA 92626

**PRESENT:** Ann L. Boynton, President  
Jeannine Graves, RN, Vice President  
Judy L. Corless, BSN, RN  
Nancy Beecham, BS, RNC  
Dian Harrison, MSW  
Richard L. Rice  
Catherine M. Toderro, PhD, RN (5/19 only)  
Kathrine M. Ware, RN, MSN, ANP-C (5/19 only)

**NOT PRESENT:** Erin Niemela

**ALSO PRESENT:** Louise Bailey, M.Ed., RN, Interim Executive Officer  
Heidi Goodman, Assistant Executive Officer  
Don Chang, DCA Legal Counsel  
Stacie Berumen, Enforcement Division Chief  
Christina Sprigg, Administration Manager  
Louisa Gomez, Licensing Manager  
Geri Nibbs, NEC  
Janette Wackerly, NEC  
Miyo Minato, NEC  
Kelly McHan, NEC  
Leslie Moody, NEC  
Kay Weinkam, NEC  
Katie Daugherty, NEC  
Geri Nibbs, NEC  
Alcidia Valim, Budget Analyst  
Julie Campbell-Warnock, Research Program Specialist

**Wednesday May 19, 2010**

**1.0 CALL TO ORDER**

A. Boynton, Board President, called the meeting to order at 9:05 am and had the Board Members introduce themselves.

## **2.0 Public Comment for Items Not on the Agenda**

No public comment made.

## **3.0 Review and Approve Minutes:**

➤ February 24-25, 2010, Board Meeting

MSC: Harrison/Corless that the Board approve minutes from February 24-25, 2010. 8/0/0

➤ March 25, 2010, Board Meeting

MSC: Rice/Todero that the Board approve minutes from March 25, 2010. 8/0/0

## **4.0 Report on Board Members' Activities**

Kathrine Ware attended the Governor's Appointee Reception on May 17, 2010 in Sacramento, CA.

## **5.0 Board and Department Activities**

### **5.1 Interim Executive Officer Report**

Louise Bailey presented this report

#### **New Agency Secretary Appointed**

On March 9, 2010, Governor Arnold Schwarzenegger announced the appointment of Bill Leonard as the secretary for the State and Consumer Services Agency. He has served as an elected public official in California since 1978.

#### **Board Member Appointed**

On April 14, 2010, Governor Arnold Schwarzenegger announced the appointment of Richard Rice as director of the California Recovery Task Force. This task force is charged with tracking the Recovery Act funding coming into the state.

#### **Board's Budget Update**

Budget Hearings – The Board's budget for FY 2010/11 was on consent at both the Senate Budget and Fiscal Review Subcommittee No. 4 held on April 29, 2010, and the Assembly Budget Subcommittee No. 4 held on May 4, 2010. The Board was not required to attend.

Budget Change Proposals (BCPs) – Concept papers for FY 2011/12 BCPs were submitted to DCA's Budget Office on May 17, 2010. Based on the increase in Enforcement costs this FY, the Board is requesting budgetary augmentations for the following line items: Attorney General \$1,340,000; Office of Administrative Hearings \$50k; and Court Reporters \$40k. Additional staff is being requested for the Board's Public Information Center based on our call volumes.

## **Department of Consumer Affairs (DCA) Updates**

Board Member Orientation – In accordance with Business and Professions Code Section 453, Board Members are required to attend DCA's Board Member Orientation within one year of their appointment. The next Board Member Orientation is set for Wednesday, June 29, 2010, at DCA Headquarters in Sacramento from 9:00 am to 4:30 pm. Please notify the Administration Unit if you would like to attend.

DCA Appointments – Janice Shintaku-Enkoji accepted the position of Fiscal Officer for the Office of Administrative Services. She is responsible for Fiscal Operations, which includes the Accounting, Budget, and Central Cashiering Offices. Ms. Shintaku-Enkoji has been with the Department since May 1993 and has served in various positions with her most recent assignment as the Department's Budget Officer. She was instrumental in gaining DOF approval of the department's Consumer Protection Enforcement Initiative BCP for the Healing Arts Boards.

Russ Heimerich – has become the Department's primary contact for all communication-related matters since Luis Farias, Deputy Director for Communications was recently recruited and is working for the newly formed Governor's Office of Economic Development. Should you be contacted by the media, please call Russ Heimerich directly.

Bev Augustine – is now Deputy Director for the Consumer and Community Empowerment Division (CCED) after serving as Deputy Director for Strategic Organization; Leadership, and Individual Development (SOLID).

Microsoft Active Directory Exchange/Outlook (MADEO) – Efforts are well underway to replace the Novell Netware directory services with Active Directory and the Lotus Notes e-mail system with Exchange/Outlook e-mail. In early April the MADEO pilot group began using this new system and are working through the kinks before it is deployed throughout the Department. It is anticipated that the Board's implementation will take place May 26, 2010.

BreEZe Project – The BreEZe solution Request for Proposal is due to be released shortly. This is the system that will replace the CAS and ATS legacy systems. The Project Team has been working closely with the Department of General Services to finalize the details that will allow interaction with qualified bidders to refine the BreEZe system requirements. On May 4, 2010, the Assembly Budget Subcommittee No. 4 unanimously approved the Department-wide BCP to fund this project; however, the Senate Budget and Fiscal Review Subcommittee No. 4 has held this item open due to the alternative payment model based on a "fee-per-transaction" payment model. Heidi Goodman, Assistant Executive Officer represents the Board on the BreEZe Executive Steering Committee and Lorraine Clarke, Case Management Analyst, is the Enforcement Unit Subject Matter Expert, who will begin working with the BreEZe team in August.

Office Relocation Update – DCA is in the process of acquiring additional office space to accommodate the new positions, which are to be filled over the next two years. The Department of Finance has give DCA the final approval to obtain new space for our Board and others that are included in the Consumer Protection Enforcement Initiative. The Board is working with the Facilities Management Unit in identifying the number of workstations and private offices required. It is anticipated that the move will take place in early 2011.

**Sunset Review Report**

In March, the Board was notified that the Senate Committee on Business, Professions and Economic Development (the Committee) will resume the Sunset Review process and hold Sunset Review hearings in the fall of 2010. Our Board is one of nine Boards under Sunset Review this year. The review includes a detailed report of the Boards current programs, financial state and staffing levels. Most data reported will be for the past four fiscal years and any major developments or changes in the Board since the last Sunset Review in 2002. The report includes a section on responses to each issue and recommendation raised during the prior sunset review and provides an opportunity to raise new issues and make recommendations to the Committee. The report is due to the Committee by October 1, 2010

Board staff have begun work on the report and been in contact with Committee staff to address issues that may already be identified by the Committee. Committee staff will analyze the Sunset Review information provided by the Board and prepare a background paper with issues and possible preliminary recommendations for the Board and interested parties to consider during public hearings to be held in November or December this year. The Department of Consumer Affairs will then have an opportunity to review and present their recommendations to the Committee sometime in March 2011. The Committee will then vote upon recommendations. We will keep the Board apprised of the Sunset Review process as we progress.

**2010 RN Survey**

The Board contracts with the Center for the Health Professions at the University of California, San Francisco (UCSF) to conduct a biennial survey of active and inactive Registered Nurses in California. The purpose of the surveys is to collect and evaluate nursing workforce data to understand the demographics, education, employment patterns, nurse perceptions of the work environment, reasons for discontinuing work in nursing and plans for future employment.

UCSF and Board staff are currently working on the 2010 survey. On April 22, 2010, a survey was mailed out to a sample of 10,000 RNs with active licenses who reside in California and other states and another 1,000 surveys were mailed to RNs with recently inactive or lapsed licenses who reside in California. The survey respondents can complete the survey online or mail back the hard copy sent to them. Depending upon the response rate, completed surveys will most likely be accepted through June or July. The data will then be analyzed and a report will be generated providing data for this survey and previous surveys so trends can be reviewed. This is the seventh in the series of California RN workforce surveys, the previous ones were conducted in 1990, 1993, 1997, 2004, 2006 and 2008.

**Public Record Request**

The Board continues to comply with public record request and responds within the required timeframes that are set in Government Code Section 6250. For the period of February 11, 2010 through May 6, 2010, the Board has received and processed 31 public record requests.

### **Board Member Correspondence**

For the period of April 1, 2010 through May 18, 2010, the Board received two letters and two e-mails addressed to Board Member(s). One letter was related to Senate Bill 1111 and the other was related to a disciplinary order against a registered nurse. The two e-mails were sent to a Board Member and one was related to an educational program and the other to an immigration requirement.

### **Personnel**

The following personnel changes have transpired since the last Board Meeting:

<b>New Hires</b>	<b>Classification</b>	<b>Board Program</b>
Steven Mao	Key Data Operator	Licensing Support

<b>Promotions</b>	<b>Classification</b>	<b>Board Program</b>
Truyen Le	Key Data Operator	Licensing Support

## **5.2 DCA Directors Report**

Kimberly Kirchmeyer presented the DCA Directors Report on behalf of Brian Stiger, Director

### **Update on Consumer Protection Enforcement Initiative**

This Initiative's goal is to improve the Boards' enforcement programs and reduce the overall timeframe to 12 – 18 months to take disciplinary action against a licensee in violation of the law. The initiative covers three main areas, administrative improvements, staffing and IT resources, and legislative changes.

In regard to the administrative improvements, our first Enforcement Academy began on April 19th. 80 staff members from the Department are going through training on the enforcement process. This academy is not only focused on specific training and education, but times of interaction where those in attendance can discuss what works best for them. The Department has also begun to receive enforcement statistics and improvement plans from each of the Boards. The Deputy Director of Enforcement and Compliance is reviewing those statistics and meeting with the Boards to review the data, discuss necessary improvements, and ask where the Department can assist.

The Department has also developed a set of eight performance measures for its enforcement function. The measures address cycle time, volume of complaints, cost, customer service, and probation monitoring. Formal data collection for the performance measurements will begin on July 1, 2010. In October, the Boards will report publicly via their Web sites on these measurements. The Boards are being asked to set targets for the measures by June 8, 2010.

For staffing and IT resources, we are pleased to announce that the BCP to request additional staff for the healing arts boards was approved by the Assembly Budget Committee on March 24, 2010. The Senate Budget Committee is meeting today, and we are hopeful that the BCP will be approved.

For the IT resources, the Department has a Request for Purchase that has been released and is pending. The project to replace the licensing and enforcement antiquated systems is on target for completion. The BCP for this project was approved on May 4, 2010, by the Assembly Budget Committee. It was held over in the Senate Budget Committee but will be heard today.

SB 1111 was the bill that was suppose to carry the legislative changes for this initiative. This bill was heard before the Senate Business and Professions Committee but unfortunately it did not pass out of committee.

Although the bill did not pass, the Department has determined that many of the provisions can be implemented via the regulatory process. Legal counsel has identified nine items that can be implemented with regulations. This regulatory language will allow the executive officers the ability to expedite the Board's investigation and prosecution processes.

The Department will continue to do all it can to assist the Boards to improve their enforcement processes. The Department encourages the Board members to continue to monitor their Board's enforcement process and timelines.

### **Continuing Competency**

The Department has been very involved in improving the reactive portion of enforcement (complaint process). However, we would like to also look at the proactive side by ensuring patient safety through competent practitioners. We are looking into the issue of continuing competency for licensees and will have a guest speaker at the Board Member training in July. This is a matter that the Department believes should be explored in an effort to decrease consumer complaints and improve patient safety.

### **SB 1441**

The Department has finalized the proposed legislative language needed to implement the SB 1441 Uniform Standards. Senate Bill 1172 is the bill that carries the language to provide the legal authority to implement portions of standards 2, 8, 9, 10, 14, and 15. Now that the legislative changes have been identified, the Department is requesting that the Board move forward with the regulations or policy decisions necessary to implement the remaining standards. The Department encourages the Board to place an agenda item on their next agenda with the draft regulatory language necessary to implement the standards and request a regulatory hearing be set regarding these regulations. Board staff should work with legal counsel to draft regulatory language to implement these standards. Each of the Boards should be moving forward to implement these standards, including drafting regulatory language and holding hearings on that language. If there are standards that can be implemented through changes in policy that don't require legislation or regulations,

please implement those as soon as possible. The Committee has established a subcommittee on the frequency of testing that will be re-evaluating and discussing this issue.

### **July 27, 2010**

The Department has scheduled a Board member training for all members on July 27, 2010. This training will provide information on the licensing and enforcement processes as well as information on the role of members, members' governance, and performance measurements for the Boards. The Department is requesting all members attend this very valuable training.

### **Voting by Email**

The Department is also encouraging the Boards who do not already do so to have their members vote by email on disciplinary cases. The IT unit is working on the technology to allow for this process. This will speed up the process for taking action against a licensee.

### **Form 700 filings**

This is just a reminder that Form 700s are due and that failure to provide the 700 form can result in a fine to a member.

## **6.0 Election of Officers**

The deadline to submit letters of interest to the Nominating Committee for the positions of President and Vice President for 2010 was Friday, April 23, 2010.

Ann Boynton, Public Member was elected President of the Board for 2010. 5/3/0  
Jeannine Graves, RN, was elected Vice-President of the Board for 2010. 8/0/0

## **7.0 Report of the Administrative Committee**

Ann L. Boynton, Chairperson

### **7.1 Proposed Amendment, Title 16, California Code of Regulations, Article 1, Section 1417, Fees**

G. Nibbs presented this report

The Board's regulatory proposal increasing specified fees has been approved by the Department of Consumer Affairs, and was forwarded to the State and Consumer Services Agency. After Agency review and approval, the proposal will be submitted to the Department of Finance.

### **7.2 2010/2011 Budget**

A. Boynton presented this report

A budgetary overview was provided detailing the following:

- Board Revenue
- Personnel Numbers and Costs

- Attorney General Costs
- Division of Investigation Costs
- Operating Equipment and Expenses
- Pro Rata

### **7.3 Increase in Salary Range for Executive Officer**

A. Boynton presented this report

Recommendation was made to increase the Executive Officer salary from \$105,000 - \$114,000 to \$115,000 – \$130,000.

MSC: Ware/Rice that the Board increase the Executive Officer salary to \$115,000 – \$130,000.  
8/0/0

### **8.0 Report of the Legislative Committee**

Dian Harrison, MSW, Chairperson

#### **8.1 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board**

L. Bailey presented this report

AB1703 Knight: State Nursing Assumption Program of Loans for Education:  
veterans' homes

MSC: Corless/Ware that the Board support AB 1703. 8/0/0

AB 1937 Fletcher: Pupil Health: immunizations

MSC: Ware/Corless that the Board support AB 1937. 8/0/0

AB 2130 Huber: Professions and Vocations: sunset review

MSC: Boynton/Todero that the Board support AB 2130. 8/0/0

AB 2302 Fong: Postsecondary Education: student transfer

MSC: Ware/Todero that the Board watch AB 2302. 8/0/0

AB 2344 Nielson: Nursing: approved schools

MSC: Rice/Todero that the Board support AB 2344. 8/0/0

AB 2385 Perez: Pilot Program for Accelerated Nursing and Allied Health Care  
Profession Education at the California Community Colleges

MSC: Beecham/Boynton that the Board watch AB 2385. 8/0/0

The following people provided a comment:

Trisha Hunter, American Nurses Association California  
Kelly Green, California Nurses Association  
Barbara Blake, United Nurses Association



AB 2454 Torlakson: Pupil Health  
MSC: Todero/Wate that the Board support AB 2454. 8/0/0

SB 389 Negrete McLeod: Professions and Vocations  
MSC: Rice/Todero that the Board support SB 389. 8/0/0

SB 1051 Huff: Emergency Medical Assistance: administration of Diastat  
MSC: Ware/Beecham that the Board oppose SB 1051. 7/1/0

The following people provided a comment:

Ron Wincart, Council for Orange Department of Education  
Patrick Lorenzo and Inez Lorenzo  
Julie Pearson  
Norine Gill  
Unknown Speaker  
Judy Pannel, Executive Director, Epilepsy Alliance Orange County  
Ann Kinker, Epilipsy California Public Policy Coalition  
Cathy Hunderbur, Legislator California  
Nancy Spradley, Director, California School Nurse Association  
Marilyn Alexander, President, California School Nurse Association  
Kelly Green, California Nurses Association  
Trisha Hunter, American Nurses Association California

SB 1119 Wright: Health Care Staffing  
MSC: Ware/Todero that the Board oppose SB 1119. 8/0/0

Genevieve Clavreul, RN provided a comment.

SB 1150 Negrete McLeod: Healing Arts  
MSC: Corless/Ware that the Board watch SB 1150. 8/0/0

SB 1171 Negrete McLeod: Regulatory Boards: operations  
MSC: Boynton/Todero that the Board watch SB 1171. 8/0/0

Kelly Green, California Nurses Association provided a comment.

SB 1172 Negrete McLeod Regulatory Boards: diversion programs  
MSC: Ware/Beecham that the Board watch SB 1172. 8/0/0

The following people provided a comment:

Kelly Green, California Nurses Association  
Kim Kirchmeyer, DCA Deputy Director, Board and Bureau Relations

**9.0 Report of the Diversion/Discipline Committee**  
Richard Rice, Chairperson

**9.1 SB 1441 Substance Abuse Coordination Committee Update**

S. Berumen presented this report

Agenda item is duplicative to agenda item 9.3 below.

**9.2 Consumer Protection Enforcement Initiative**

S. Berumen presented this report

The Department of Consumer Affairs (Department) submitted a budget change proposal request in October 2009 for all health care related boards to improve the enforcement process. The BRN received approval for 37 permanent and limited term positions beginning in July 2010 or the passage of a budget.

In addition, the Department submitted a legislative package in support of the Consumer Protection Enforcement Initiative to the chair of the Senate Business, Professions, and Economic Development, Senator Gloria Negrete McLeod which was introduced on February 17, 2010.

The legislative package would have provided several tools necessary to bolster reducing the length of time to investigate complaints such as: authorize the Board to hire investigators, allow investigators to inspect and copy necessary documents from health care facilities, reduce the burden of proof from clear and convincing to preponderance (previously approved level of proof), require immediate felony conviction reporting to board, automatic license denial and revocation for registered sex offenders, etc.

The bill was amended on April 12, 2010, in an effort to address concerns raised by representatives of various health care professionals. Unfortunately, the bill failed a vote in committee on April 19, 2010.

The Department and legislature continue to explore other avenues and opportunities to provide the tools needed to reduce the length of time to investigate a case and thus protect the public in a more expedient and efficient manner. Board staff has also been working to put together a regulation proposal for the committee's consideration.

**9.3 SB 1441 Substance Abuse Coordination Committee Update**

S. Berumen presented this report

➤ Letter from Board to DCA Director

SB 1441 was chaptered on September 28, 2008, requiring creation of a committee which was comprised of the Department of Consumer Affairs' director, and executive officers from all of the healing arts boards. The committee was to meet to formulate 16 uniform and specific standards for dealing with substance abusing licensees by January 1, 2010.

The committee met on April 6, 2010, to discuss and amend the following standards:

1. Specific requirements for a clinical diagnostic evaluation.
  - Language clarification
2. Requirements for temporary removal of the licensee from practice to complete the clinical diagnostic evaluation and criteria to return to practice.
  - Replacing the phrase, "placed on inactive status" with "automatically suspended"
8. Procedures to be followed when a licensee tests positive for a banned substance.
  - Replacing the term, "inactive status" with "automatically suspended"
10. Specific consequences for major and minor violations.
  - Replace word, "Inactivation" with "Automatic suspension"

SB 1172 was introduced by Senator Gloria Negrete McLeod on February 18, 2010. The language has been amended twice in April 2010 and provides statutory authority to implement the standards. The bill passed in the Senate Business, Professions and Economic Development committee on April 19, 2010, and is scheduled to be heard in the Senate Appropriations Committee on May 10, 2010.

Board staff continues to work with our legal counsel to determine what language must be created or changed.

A sub-committee was created at the April 6, 2010, meeting to discuss the number of drug screens required by standard #4. Louise Bailey, Interim Executive Officer, has been appointed to this committee.

MSC: Graves/Ware that a letter, approved by the Administrative Committee, be sent to the DCA Director. 8-0-0

#### **9.4 Enforcement Regulation Proposals**

S. Berumen presented this report

- California Code of Regulations, Article 1, Section 1403, Delegation of Certain Functions
- California Code of Regulations, Article 4, Section 1444.5, Disciplinary Guidelines
- California Code of Regulations, Article 4, Section 1443.6, Required Actions Against Registered Sex Offenders
- California Code of Regulations, Article 4, Section 1441, Unprofessional Conduct
- California Code of Regulations, Article 2, Section 1410, Application

The Department of Consumer Affairs (Department) sponsored Senate Bill 1111 to provide tools for health care boards with necessary tools to implement the Consumer Protection Enforcement Initiative. This bill failed in the Senate Business, Professions and Economic Development Committee on April 19, 2010. It would have provided a number of tools to streamline the enforcement and discipline process.

In an effort to provide staff with some of the necessary tools to meet the Department's goal of completing a case within 12-18 months board staff have worked with Department staff and

our legal counsel to provide regulatory authority wherever possible. These are the proposed regulation changes:

CCR, Article 1, Section 1403-Delegation of Certain Functions (Amend)

The proposed change allows the Board to delegate the authority to the Executive Officer to approve settlement agreements for revocation, surrender, or interim suspension of a license.

CCR, Article 4, Section 1444.5-Disciplinary Guidelines (Amend)

The proposed change requires an Administrative Law Judge to revoke a license, without a stay order, if the licensee is found to have violated Business & Professions Code section 729(c) or Education Code section 44010 related to inappropriate sexual contact or offense.

CCR, Article 4, Section 1443.6-Required Actions Against Registered Sex Offenders (New)

The proposed changes set forth criteria to deny and/or revoke a license if an individual is required to register as a sex offender pursuant to Penal Code section 290.

CCR, Article 4, Section 1441-Unprofessional Conduct (New)

The proposed changes sets forth definitions for “unprofessional conduct” which includes but is not limited to: no gag clauses in civil settlement agreements; licensees who do not provide requested records pursuant to an investigation; licensees who do not cooperate and participate in a pending investigation; failure of a licensee to notify the board within 30 days of felony charges or indictment, arrest, conviction, disciplinary action by another licensing entity, or to comply with a court ordered subpoena.

CCR, Article 2, Section 1410-Application (Amend)

The proposed change requires an applicant to undergo an evaluation and/or examination if it appears the applicant may be unable to practice due to mental and/or physical illness. The board is required to pay for the examination.

## **9.5 Enforcement Program Update and Statistics**

S. Berumen presented this report

### **Staff**

The Nurse Evaluator IV position remains unfilled. Human Resources and the Department of Personnel Administration may change the classification to Nursing Consultant, thus reducing the minimum qualifications to a 4-year Bachelor’s degree. The Nursing Consultant classification increases the pool of current or recently experienced bedside nurses, an essential nurse expert qualification.

Through design sessions with staff, Enforcement plans to map out strategies to implement the new units and processes, as well as define the duty statements for the 33 newly approved positions.

### **Program**

In mid-March, we discontinued complaint processing assistance from the DCA Complaint Mediation. We meet the 10-day complaint acknowledgement letter requirement and there is no complaint backlog.

The Nursys clean up of 80 cases that either contained errors or were not reported is complete. The second phase involves the February 2010 Nursys scrub. The results indicate that approximately 3,700 reports of out of state discipline were not reported to California. Of the 3,700 reports (both active and inactive California licensees), some are multiple instances against one individual – many piggyback actions from state to state, and do not include additional matters. Discipline records are being requested from each of the state boards and complaints will be opened and acted upon accordingly.

We started the CAS clean up project on March 1, 2010. All January 2010 pending complaints now adhere to the requirements of the Enforcement Measurement reports. The February complaint clean up is still in progress. As of March 1, 2010, any new or pending complaints include the new code requirements.

### **Internal Investigations**

Internal investigators have completed 19 investigations. We have assigned cases to four retired annuitants - three in Northern CA, and one in Southern CA; however, only two Northern CA investigators turned in reports. In early March, Kathy Hodge, who is also a registered nurse, began to review cases and develop investigative case plans. The plans include a summary of the complaint, discussion of the evidence and focus of the investigation, and step-by-step action items which include: individuals to interview, specific interview questions, additional documents, and what kind of expert to use if needed. Depending on the complexity of the case and the volume of documents to review, each case plan takes three to four hours to prepare. The case plans only address urgent Northern CA cases, since there are no Southern CA investigators available. Over a four-week period in June/July, we plan to utilize BRN Nursing Education Consultants to develop case plans for urgent Southern CA cases. We estimate to potentially return 160 cases to DOI for limited, focused investigations.

### **Case Management**

The Citation/Fine analyst is following up on old fines that were never collected. Any pending fines greater than five years are being closed as uncollectable. A collection letter is going out to all others. After three attempts to collect, we will refer them to Franchise Tax Board (FTB). FTB will act as our agent in collecting the outstanding fines. This is especially effective for the unlicensed practice citations or delinquent licensees. We will hold license renewals on any licensee that has not paid their fine.

The Northern California Expert Witness Workshop is scheduled to be held in Sacramento on May 13, 2010, in the DCA Hearing Room. The purpose of the workshop is to ensure expert reports and testimony can prevail in an administrative hearing. We currently have 87 nurses registered to attend, approximately 40% are current experts - all others are potentially new experts. We plan to hold a Fall workshop in Southern California, date to be determined. National Council of State Boards of Nursing (NCSBN) is sponsoring Stacie Berumen and Kathy Hodge to attend the Investigator/Attorney Symposium in Santa Monica May 24-26.

## 9.6 Probation Program Update and Statistics

S. Berumen presented this report

### Staff

No staff changes during this time period.

### Program

The Probation Unit staff completed the Probation and Monitoring Module for the Enforcement Academy, and will provide training Department wide beginning June 7, 2010.

The probation unit met with the Nursing Education Consultants to improve the process for employment approvals. The improvements will create a faster and more efficient process for monitoring employment; thereby, improving safety. These processes will be added to the probation monitoring procedure manual.

The probation unit will begin revising the BRN Disciplinary Guidelines to incorporate possible regulation changes, SB 1441 requirements, and technical changes to tighten up various language misinterpretations.

The probation unit lost 576 hours of staff time from February 1, 2010 to April 30, 2010 due to state mandated furloughs.

### Statistics

Below are the statistics for the Probation program from March 1, 2010 to May 1, 2010.

Probation Data	Numbers	% of Total
Male	83	23%
Female	271	77%
Chemical Dependency	228	64%
Practice Case	90	25%
Mental Health	1	<1%
Conviction	35	9%
Advanced Certificates	27	7%
Southern California	202	57%
Northern California	152	43%
Probation Data	Numbers	% of Total
Pending at the AG	66	19%
License Revoked	6	2%
License Surrendered	10	3%
Terminated	0	0%
Completed	16	5%
Total in-state probationers	354	

## **9.7 Diversion Program Update and Statistics**

S. Berumen presented this report

### **Program Update**

The Diversion Program cleaned up the backlog of board referred complaints. This was accomplished by utilizing temporarily loaned staff and a retired annuitant who was reinstated on an emergency basis. The retired annuitant will be out of the office for the next few months. The program is shorthanded with only one support staff, one associate governmental program analyst, and one program manager. We continue to be impacted by furloughs and lack of personnel to help with the increased workload, number of Diversion Program participants, contract changes, program component changes, and SB 1441 requirements. As stated previously the program needs additional staff to satisfy these additional requirements.

The program manager was a presenter at the 2010 NCSBN Substance Use Disorder Guidelines Forum held on April 27-28 in Chicago. The forum objectives were to enhance attendees' ability to: (1) review discipline and alternative programs, (2) provide recommended regulatory practices for licensees with substance use disorders; and (3) discuss the proposed guidelines, based on the most current research and evidence, which provide best practice recommendations for detection, prevention and intervention of substance use disorders cases. A copy of the draft model guidelines for alternative and discipline monitoring programs can be provided for your review upon request. The forum was considered a huge success and the feedback has been rewarding.

### **Contractor Update**

Diversion Program staff regularly meet with Maximus to draft forms and outline processes to implement the new contract requirements. The implementation of new forms was delayed as a result of the SB 1441 mandated audit. The new forms and processes developed by the contractor and the Diversion Program Committee (DPC) will be tested and implemented once successful. Maximus and the DPC developed a handbook for all Diversion Program participants and is available for your review upon request.

### **Diversion Evaluation Committees (DEC)**

There are currently seven vacancies as follows: two Registered Nurses, four Physicians and one Public member. Recruitment efforts continue.

### **Statistics**

The Monthly Statistical Summary Report was provided for January-March, 2010. As of March 31, 2010, there were 1,458 successful completions.

In accordance with B & P Code Section 2770.2, the Board of Registered Nursing is responsible for appointing persons to serve on the Diversion Evaluation Committees. Each Committee for the Diversion Program is composed of three registered nurses, a physician and a public member with expertise in chemical dependency and/or mental health.

#### 9.7.1 Diversion Evaluation Committee Term Expirations/Resignations

S. Berumen presented this report

The following Diversion Evaluation Committee members' terms will expire on June 30, 2010. Their efforts will be recognized and letters of appreciation mailed out.

#### TERM EXPIRATIONS

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Carol Romo	Nurse	San Jose	7
Inez Rozar	Nurse	San Diego	10
William Thompson	Physician	North Coast	11

#### 9.7.2 Diversion Evaluation Committee Appointments

S. Berumen presented this report

In accordance with B & P Code Section 2770.2, the Board of Registered Nursing is required to appoint persons to serve on Diversion Evaluation Committees. Each committee is composed of three registered nurses, a physician, and a public member with expertise in chemical dependency and/or mental health.

#### APPOINTMENTS

Below are candidates who were interviewed and are recommended for appointment to a Diversion Evaluation Committee (DEC). Their applications and résumés are attached. If appointed, terms will expire June 30, 2014

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Diane Alvy	Nurse	Los Angeles	3
Dianne Souza	Public	Ontario	9
Grace Murphy	Nurse	Santa Ana	14

#### REAPPOINTMENTS

The following DEC members are requesting second term appointments. If reappointed, terms will expire June 30, 2014

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
R. Keith Simpson	Physician	Orange County	4
Duane Anderson	Nurse	Burbank	8
Robert Robinson	Public	San Diego	10
Ernestine Leverette	Nurse	Santa Ana	14

#### TERM EXTENSIONS

The following DEC members request a two-year appointment extension. If approved, terms will expire June 30, 2012.



<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Richard Jaco	Nurse	Sacramento	1
Laura Leedahl	Nurse	Ontario	9
Barbara Leery	Nurse	North Central	12

#### **TRANSFER**

The following DEC member will transfer from the Los Angeles DEC to the Santa Ana DEC once it is established.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Bobbie Leva			

MSC: Ware/Beecham that the Board approve Diversion Evaluation Committee Member appointments. 8/0/0

#### **10.0 Report of the Education/Licensing Committee**

Catherine Toderro, PhD, RN, Chairperson

#### **10.1 Minor Curriculum Revision**

M. Minato presented this report

##### **10.1.1 March 24, 2010 Committee Meeting**

M. Minato presented this report

- California State University, Channel Islands, Baccalaureate Degree Nursing Program
- California State University, Fullerton, Baccalaureate and Entry Level Master's Degree Nursing Programs.
- California State University, Los Angeles, Baccalaureate Degree Nursing Program
- University of San Francisco Entry Level Master's Degree Nursing Program
- College of San Mateo Associate Degree Nursing Program
- Copper Mountain College Associate Degree Nursing Program
- Fresno City College Associate Degree Nursing Program
- Saddleback College Associate Degree Nursing Program
- Shasta College Associate Degree Nursing Program
- Unitek College LVN to RN Associate Degree Nursing Program

Progress Report:

- California State University, Channel Islands, Baccalaureate Degree Nursing Program
- Copper Mountain College Associate Degree Nursing Program

##### **10.1.2 May 18, 2010 Committee Meeting**

M. Minato presented this report

- California Baptist University Baccalaureate Degree Nursing Program
- California State University, Chico, Baccalaureate Degree Nursing Program and LVN to BSN Degree Options

- Charles Drew University, Entry Level Master's Degree Nursing Program
- Concordia University Accelerated Baccalaureate Degree Nursing Program
- El Camino College Associate Degree Nursing Program
- Los Angeles County College of Nursing and Allied Health Associate Degree Nursing Program
- San Joaquin Valley College Associate Degree Nursing Program
- Western Career College LVN to RN Associate Degree Nursing Program

Progress Report:

- InterAmerican College Entry Level Master's Degree Nursing Program
- San Diego State University Baccalaureate Degree Nursing Program and Southwestern College Associate Degree Nursing Program Partnership with University of Oklahoma Online Program
- Western Governors University Baccalaureate Degree Nursing Program

MSC: Beecham/Ware that the Board ratify Minor Curriculum Revisions. 8/0/0

## **10.2 Education/Licensing Committee Actions**

M. Minato presented this report

### **10.2.1 March 24, 2010 Committee Meeting Recommendations**

M. Minato presented this report

Continue Approval of Prelicensure Nursing Program

- American University of Health Sciences Baccalaureate Degree Nursing Program
- Los Angeles Harbor College Associate Degree Nursing Program
- Palomar College Associate Degree Nursing Program

Genevieve Clavreul, RN provided a comment.

- Pasadena City College Associate Degree Nursing Program

Defer Action to Continue Approval of Prelicensure Nursing Program

- Humboldt State University Baccalaureate Degree Nursing Program

Approve Major Curriculum Revision

- San Jose State University Baccalaureate Degree Nursing Program
- Pacific Union College Associate Degree Nursing Program
- San Diego City College Associate Degree Nursing Program

MSC: Ware/Harrison that the Board approve Education/Licensing Committee Recommendations. 7/0/1 (N. Beecham)

### **10.2.2 May 18, 2010 Committee Meeting**

M. Minato presented this report

Continue Approval of Prelicensure Nursing Program

- Humboldt State University Baccalaureate Degree Nursing Program
- Rio Hondo College Associate Degree Nursing Program
- San Joaquin Delta College Associate Degree Nursing Program

MSC: Graves/Beecham that the Board approve Education/Licensing Committee recommendations.  
8/0/0

### **10.3 Continue Approval of Advanced Practice Nursing Program**

M. Minato presented this report

- University of California, San Francisco, Nurse Practitioner Programs
- University of California, San Francisco/San Francisco General Hospital Interdepartmental Nurse-Midwifery Education Program

MSC: Graves/Beecham that the Board approve continue approval of advanced practice nursing programs. 8/0/0

### **10.4 Major Curriculum Revision**

M. Minato presented this report

- San Diego State University Baccalaureate Degree Nursing Program
- Rio Hondo College Associate Degree Nursing Program
- University of San Diego, Advanced Practice Nurse Practitioner Program

MSC: Graves/Beecham that the Board approve major curriculum revisions. 7/0/1 (C. Todero)

### **10.5 Proposed Amendment, Title 16, California Code of Regulations, Article 4, Section 1420 et. seq., Schools of Nursing**

G. Nibbs presented this report

The regulatory proposal amending Title 16, CCR, Article 3, Schools of Nursing, was the subject of a 15-Day Notice comment period from April 8 to April 26, 2010. One individual and two organizations submitted comments. Following is a summary of the comments and proposed responses.

**Hochberg**, in response to the initial regulatory proposal, recommended that the terms “distance learning” and “blended learning” be defined because the terms are used in nursing literature and Board documents. The recommendation was not addressed in the March 20, 2010, Board-approved responses. He requested a response to the recommendation.

***Proposed Response:*** Reject the recommendation.

Although the terms are used in nursing literature and Board documents, they are not used in the proposed regulatory language; hence, there is no need to define the terms.

**California Nurses Association (CNA)** supports the modifications made to §1443, “Changes to Approved Programs.” CNA continues to recommend that: 1) regional or

national accreditation for institutions of higher education be included in the regulatory proposal; 2) simulation should be limited only to skills lab learning, and should be eliminated from the definition of clinical practice; and 3) "science-based practice" should be used in lieu of "evidenced-based practice."

***Proposed Response:*** Reject recommendations.

Time constraints prohibit the Board from including the accreditation requirement in this regulatory proposal. The Board must submit the final rulemaking file to the Office of Administrative Law by September 25, 2010. Inclusion of accreditation language requires research to determine the appropriate accrediting organization(s) and/or criteria to be a Board-approved accrediting organization, as well as any fiscal or economic impact. The Board's regulatory proposals must be approved by the Department of Consumer Affairs and the Consumer Services Agency. If the proposed regulations have a fiscal or economic impact, they must also be approved by the Department of Finance (DOF), which can take an additional 30 to 60 days. The existing regulatory proposal does not have an economic or fiscal impact, and will not have to be submitted to DOF.

The Board has considered the recommendations related to simulation labs and science-based practice, and has made some modifications taking into consideration CNA's comments. The Board has determined that there is no need for further modification.

**Ellison Wilson Advocacy, LLC** opposes: 1) codifying a limit on use of simulation lab as a substitute for clinical experience, and 2) separating maternal/child health into the two categories of obstetrics and pediatrics.

***Proposed Response:*** Reject comments.

The Board recognizes the value of simulation lab learning experiences as a teaching methodology. However, in the absence of research validating its effectiveness as an alternative to direct care with patients/clients, the Board has determined that its use as clinical practice must be limited. In making the determination, the Board took into consideration comments submitted in response to the initial regulatory proposal. The requirement that at least 75% of clinical hours be in direct patient care is reasonable and consistent with existing Board policy. If research is forthcoming that validates simulation lab or any other clinical learning experience is equivalent to or better than direct care with real patients/clients, the Board will promulgate regulatory amendments, as necessary.

The comment related to separating maternal/child health into two clinical areas is not responsive to the proposed modifications subject to the 15-Day Notice.

MSC: Corless/Harrison that the Board approve the regulatory proposal amending Title 16, CCR, Article 3, Schools of Nursing. 8/0/0

## **10.6 Initial Approval of Prelicensure Registered Nursing Program**

M. Minato presented this report

➤ Porterville College Associate Degree Nursing Program

MSC: Corless/Ware that the Board grant initial approval of prelicensure for Porterville College Associate Degree Nursing Program. 8/0/0

- Reedley College Associate Degree Nursing Program

MSC: Ware/Beecham that the Board grant initial approval of prelicensure for Reedley College Associate Degree Nursing Program. 8/0/0

- Shepherd University Associate Degree Nursing Program

MSC: Ware/Beecham that the Board grant initial approval of prelicensure for Shepherd University Associate Degree Nursing Program.

- Holy Names University LVN to Baccalaureate Degree Nursing Program

MSC: Beecham/Corless that the Board grant initial approval of prelicensure for Holy Names University LVN to Baccalaureate Nursing Program.

- Simpson University Baccalaureate Degree Nursing Program

MSC: Ware/Harrison that the Board grant initial approval to Simpson University Baccalaureate Degree Nursing Program. 8/0/0

#### **10.7 Feasibility Study for Prelicensure Registered Nursing Program**

M. Minato presented this report

- Four-D College Associate Degree Nursing Program

MSC: Rick/Beecham that the Board accept the feasibility study from Four-D College Associate Degree Nursing Program. 8/0/0

#### **10.8 2009 Goal Achievement Report**

M. Minato presented this report

Annually the committee reviews the activities of the previous calendar year in relation to meeting their stated goals and objectives. The ELC Goals and Objectives of ELC are reviewed and revised every two years. Attached is the report detailing the achievements of ELC Goals and Objectives for 2009-2011 and summary of the activities for January 1, 2009 to December 31, 2009.

Educational program activities related to continuing approval of nursing programs as well as review of new program approvals are summarized below, and other activities are summarized in the attached report.

- Staff completed continuing approval visit, which is conducted every eight years, for a total of eighteen (18)-nursing schools in 2009, including fifteen (15) pre-licensure programs (5 BSN, include one ELM; 10 ADN); and three (3) advanced practice programs (2 NP; 1 CNM ). Curriculum of each nursing program is reviewed during the site visit as well as review clinical experiences of students. Staff also conducted ten (10) one-day interim visit that is done four years following the continuing approval visit.
- Nineteen (19) letters of intent for new prelicensure programs were received during 2009 and response letters sent to each letter.

- Nine (9) feasibility studies were reviewed by the ELC. Five (5) new proposals were accepted (1 BSN; 1 LVN to BSN; and 3 ADN) and four (4) feasibility studies were deferred or not accepted, including two programs that submitted their feasibility study more than twice.
- Two (2) new programs were granted initial approval (1 ELM; 1 BSN).

## **10.9 Annual Reports**

### **10.9.1 2008-2009 Regional Annual School Reports**

J. Campbell-Warnock presented this report

The Regional Annual School Reports present the historical analyses of nursing program data from the 2000-2001 BRN Annual School Survey through the 2008-2009 survey for the nine economic regions in California. Each region has a separate report. All data are presented in aggregate form, and describe the overall trends in these regions over the specified periods. The data items addressed include the numbers of nursing programs, enrollments, completions, retention rates, student and faculty census information, and simulation centers.

The nine regions include: (1) Northern California, (2) Northern Sacramento Valley, (3) Greater Sacramento, (4) Bay Area, (5) San Joaquin Valley, (7) Central Coast, (8) Southern California I (Los Angeles and Ventura Counties), (9) Southern California II (Orange, Riverside, and San Bernardino Counties), and (10) Southern Border Region. Counties within each region are detailed in the corresponding report. The Central Sierra (Region 6) does not have any nursing programs and was, therefore, not included in the analyses.

Reports will be made available to the public on the BRN website.

### **10.9.2 2008 – 2009 Post-Licensure Program Annual Report**

J. Campbell-Warnock presented this report

The BRN first surveyed California post-licensure nursing programs in 2004-2005. The 2008-2009 Post-Licensure Nursing Program Report presents analysis of the 2008-2009 data in comparison with data from previous years of the survey.

Since post-licensure nursing programs offer a wide range of degrees, this report is presented in program sections, including RN to BSN Programs, Master's Degree Programs and Doctoral Programs. Data items addressed in each program section include the number of nursing programs, enrollments, graduations, and student census data. Faculty census data is included in a separate section as it is collected by school, not by degree program.

## **10.10 NCLEX-RN Pass Rates Update**

M. Minato presented this report

The Board of Registered Nursing receives quarterly reports from the National Council of State Boards of Nursing (NCSBN) about the NCLEX-RN test results by quarter and with an

annual perspective. The following tables show this information for the last 12 months and by each quarter.

### NCLEX RESULTS – FIRST TIME CANDIDATES

April 1, 2009– March 31, 2010

JURISDICTION	TOTAL TAKING TEST	PERCENT PASSED %
California	11,170	88.81
United States and Territories	138,924	88.88

### CALIFORNIA NCLEX RESULTS – FIRST TIME CANDIDATES

By Quarters and Year April 1, 2009-March 31, 2010

4/1/09- 6/30/09*		7/01/09- 9/30/09*		10/01/09- 12/31/09*		1/01/10- 3/31/10*		4/01/09- 3/31/10	
# cand.	% pass	# cand.	% pass	# cand.	% pass	# cand.	% pass	# cand.	% pass
2,143	89.78	4,198	88.40	989	84.63	3,840	89.79	11,170	88.81

\*Includes (15), (16), and (9) "re-entry" candidates.

The Nursing Education Consultants (NECs) monitor the NCLEX results of their assigned programs. Current procedure provides that after each academic year (July 1-June 30), if there is substandard performance (below 70% pass rate for first time candidates), the NEC requests the program director submit a report outlining the program's action plan to address this substandard performance. Should the substandard performance continue in the second academic year, an interim visit is scheduled and a written report is submitted to the Education/Licensing Committee. If there is no improvement in the next quarter, a full approval visit is scheduled within six months. A report is made to the Education /Licensing Committee following the full approval visit.

#### 11.0 Report of the Nursing Practice Committee

Kathrine M. Ware, RN, MSN, ANP-C, Chairperson

#### 11.1 APRN Consensus: Issues related to the Regulatory Model by Colleen Keenan PhD, CANP Board of Director, Chair Practice Committee

J. Wackerly presented this report

Introduced in 2008, the APRN (Advanced Practice Registered Nurse) Consensus Regulatory Model is a nationally developed process designed to ensure high quality patient care and safety delivered by advanced practice nurses. Four dimensions of regulation mode (LACE) include education and program accreditation, individual APRN national certification and licensure within an APRN role and population. The presentation objectives included:

- Review the components of the APRN Consensus Regulatory Model from a *Nurse Practitioner* Perspective
- Present the national timeline related to planned implementation of the LACE framework

- Provide opportunities for discussion concerning application of the regulatory model in California.

## **11.2 Barriers to Nursing Student Clinical Practice**

J. Wackerly presented this report

Dr. Nancy Cowen, RN, MS, EdD, Director at Chabot Colleges and President of the Northern California Associate Degree Nursing Director Group provided survey information on items of concern to the Nursing Practice Committee. Vicky Maryatt, RN, MSN, Director at American River College and Roz Hartman, RN, MSN, Director at College of Marin produced the survey with results and presented to the Nursing Practice Committee meeting.

Northern Associate Degree Nursing Programs are experiencing difficulty with aspects of nursing student clinical affiliations in acute care and in some instances inability of nursing students to perform glucometer testing, access to medication including narcotics, access to the electronic medical record and limiting bar coding medication administration. Faculties are experiencing changes in acute care where nursing student learning opportunities have been declining in the hospitals.

## **12.0 Public Comment for Items Not on the Agenda**

The following people provided a comment:

Genevieve Clavreul, RN

Tricia Hunter, American Nurses Association California

Meeting adjourned at 2:20 pm. A. Boynton, Board President, called the closed session meeting to order at 2:30 pm. The closed session adjourned at 3:45 pm

## **Thursday, May 20, 2010**

A. Boynton, Board President, called the meeting to order at 9:05 am and had the Board Members introduce themselves.

## **13.0 Public Comment for Items Not on the Agenda**

No public comment made.

## **13.0 Disciplinary Matters**

The Board convened in closed session pursuant to Government Code Section 11126(c)(3) to deliberate on these matters and other disciplinary matters including stipulations and proposed decisions, and pursuant to Government Code Section 11126(e)(1, 2(A)) to confer with Legal Counsel regarding pending litigation. Final decisions have not been processed.



**Reinstatements**

Emelito Balmes  
Joy Ann Bland  
Kemron Ebanks  
Ricky Elago  
Yu Hogan  
Stephanie Kutto

**Termination of Probation**

Cary Ann Murphy

Decisions are pending until final orders are received from the Administrative Law Judge with the Office of Administrative Law.

Meeting adjourned at 10:30 pm. A. Boynton, Board President, called the closed session meeting to order at 10:50 pm. The closed session adjourned at 1:50 pm.



Louise Bailey, M.Ed., RN  
Interim Executive Officer



Ann Boynton  
Board President